

CLAIMING JOSH SCHULTE'S LEAKS COST CIA 100S OF MILLIONS, DOJ ASKS FOR LIFE SENTENCE

In support of sentencing for Josh Schulte, DOJ submitted an unclassified letter from CIA's Deputy Director claiming his breach cost the agency hundreds of millions of dollars, a sealed classified filing that must speak to grave harm, and a sealed letter from a CSAM victim.

The how they get to the sentencing recommendation is quite technical (though it involves a terrorism enhancement for using computers to engage in espionage).

The what – a request for a life sentence – is not surprising. The comparison of his crimes to Robert Hanssen and Aldrich Ames is similiary not surprising.

Indeed, it is the proof that Schulte carried out his conduct with the specific intent that his theft would harm the United States that sets his case apart. In virtually all cases identified in the Government's research in which violations of § 793(b) have been prosecuted, that charge has been paired with violations of 18 U.S.C. § 794, which penalizes the delivery of national defense information to a foreign government with the same intent requirement. That offense does not apply to Schulte's conduct, because he chose to transmit the Stolen CIA Files to WikiLeaks, rather than directly to a foreign state. But Schulte's intent to harm the United States, the scope of his theft and disclosure, and the consequences of his conduct, more

closely parallels cases prosecuted under § 794 than so-called “leak” cases in which comparatively small amounts of information are shared with media organizations with a misguided sense of the public interest. In such cases, Courts have routinely, albeit gravely, concluded that terms of life imprisonment are the only appropriate sanction for such devastating crimes, notwithstanding the fact that many similarly situated individuals accepted responsibility for their crimes. See, e.g., *United States v. Robert Hanssen*, 01 Cr. 1088 (E.D. Va. 2002) (life imprisonment for FBI supervisor who pled guilty to selling classified information to Russia); *United States v. Aldrich Ames*, 94 Cr. 166 (E.D. Va. 1994) (life imprisonment for CIA officer who pled guilty to selling classified information to Russia); *United States v. Arthur James Walker*, 85 Cr. 92 (E.D. Va. 1985) (life imprisonment for former Navy officer convicted of selling documents for transmission to Russia); *United States v. Andrew Daulton Lee*, 589 F.2d 980 (9th Cir. 1979) (life imprisonment for contractor convicted of selling classified information regarding CIA project to Russia).

It is, however, fairly sobering.